UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,740	06/29/2001	Matthew T. Doherty	P 0275039 P11034	3331

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EXAMINER
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ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/893,740	DOHERTY ET AL.
	Examiner	Art Unit	
	Mohammad A Siddiqi	2154	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08/26/2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-59</u> is/are pending in the application.

   4a) Of the above claim(s) <u>1-18</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>19-59</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
       application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-59 are presented for examination. Claims 1-18 have been cancelled.

2.   Applicant's election without traverse of 19-59 in the reply filed on 08/27/2004 is acknowledged.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4.   Claims 19, 22-27, 29-42, 44-51, 53, 55, 56, and 58 rejected under 35 U.S.C. 102(e) as being anticipated by O'Toole et al. (6,345,294) (hereinafter O'Toole).

5.   As per claims 19, 29, and 31, O'Toole discloses a method for obtaining

service from a management server, comprising:

        sending, by a client to a management agent, a request for service

from a management server (col 7, lines 40-46);

        forwarding, by the management agent to the management server (col

10, lines 58-62), the request for service via Hypertext Transfer Protocol

(HTTP) (col 10, lines 58-62);

        sending, by the management server to the management agent (col 10,

lines 58-62), service information via HTTP (col 10, lines 58-62); and

        forwarding, by the management agent to the client, the service

information (col 10, lines 58-62).

6.   As per claims 22, 26, 37, and 39, O'Toole discloses a method for

obtaining service from a management server, comprising:

        receiving, by a management agent, a request sent by a client, the

request comprising a request for service from a management

server (col 7, lines 40-46);

        forwarding, by the management agent to a management server (col

10, lines 58-62), the request for service via Hypertext Transfer Protocol

(HTTP) (col 10, lines 58-62); and

        forwarding, by the management agent to the client, service

information sent via HTTP (col 8, lines 52-67) by the management server to

the management agent (col 10, lines 58-62.

7.   As per claims 23 and 38, O'Toole discloses the management agent

comprises a software agent that runs on a client or server (col 3, lines 21-

31).

8.   As per claim 24, O'Toole discloses wherein the management agent

comprises firmware of a networking device (col 6, lines 26-38).

9.   As per claims 25, 30, and 36, O'Toole discloses the request comprises

a DHCP or a BOOTP request (col 7, lines 39-46).

10.   As per claims 27, 40, 45, and 50, O'Toole discloses the service

includes one of installing an operating system or application program and

providing diagnostic, upgrade, or system recovery service (col 5, lines 55-57

and col 3, lines 13-20).

11.   As per claim 32, O'Toole discloses that management agent runs on the

client (col 6, lines 26-53).

12.   As per claim 33, O'Toole discloses the client and the management

agent communicate in a virtual local area network (VLAN) (col 6, lines 39-

65, VLANs allow departments that are dispersed at two or more locations to

connect all their users to one departmental network. This overcomes the

constraint that is associated with Local Area Networks (LANs), which can

only group together users who are located in the same geographical vicinity,

such as a small building or one section of a building).

13.   As per claim 34, O'Toole discloses wherein one of a switch and a router

physically separates the client and the management server (col 6, lines 54-

62).

14.   As per claim 35, O'Toole discloses wherein a first virtual local area

network (VLAN) includes the client and a second VLAN includes the

management server, wherein the first VLAN is distinct from the second VLAN

(col 6, lines 39-65 and col8, lines 40-67).

15.   As per claims 41, 47, 53, 55, and 58, are rejected for the similar

reason as stated in claim 19 above, in addition to, O'Toole discloses

querying, by the management server about the client (col 12, lines 14-25), a

management database including information about various clients (col 6,

lines 21-23); and

    sending, by the management server to the client, service information

based at least in part on the querying (col 12, lines 14-41).

16.   As per claim 42, O'Toole discloses further comprising booting, by the

client, to a computer medium containing instructions to connect to the

management server (col 7, lines 35-60).

17.   As per claim 44, O'Toole discloses taking action, by the client, based at

least in part on the service information, the action including: booting to a

local storage medium of the client (col 6, lines 26-53); installing an

operating system (col 5, lines 40-57) or application program specified by

the management server (col 6, lines 26-53); or booting to an operating

system retrieved from a network (col 6, lines 26-67), the retrieved operating

system being configured to manage the client (col 5, lines 55-64).

18.   As per claim 46, O'Toole discloses further comprising formulating, by

the management server, a command to convey the service information sent

to the client (col 7, lines 39-46).

19.   As per claim 48, O'Toole discloses wherein the information in the

management database specifies software installed on a client (col 6, lines

20-38).

20.   As per claim 49, O'Toole discloses wherein the querying comprises:

        determining whether an operating system is to be installed on

the client (col 6, lines 55-57); determining whether the client is to boot from

a local storage medium of the client (col 6, lines27-38); and

        selecting, if the management database does not provide information

about the client, a set of default information (col 6, lines 27-53).

21.   As per claim 51, O'Toole discloses further comprising recognizing, by

the management server (col 39-53), whether the client contains a new

hardware or software component (col 3, lines 15-20), the recognizing

comprising comparing a current configuration of the client with a

configuration of the client stored in the management database (col 3, lines

6-39).

22.   As per claim 56, O'Toole discloses The computer-readable medium of

claim 55, further comprising entering, by a user into the management

database, a type of operating system to be installed on the client (col 5,

lines 55-57).

Claim Rejections - 35 USC § 103

23.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis

for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

24.   Claims 20, 21, 28, 43, 52, 54, 57, and 59 are rejected under 35 U.S.C.

103(a) as being unpatentable over O'Toole et al. (6,345,294) (hereinafter

O'Toole) in view of Hubacher et al (6,711,688) (hereinafter Hubacher).

25.   As per claims 20, 43, 52, 54, 57, and 59, O'Toole is silent about the

management server comprises a preexecution boot environment (PXE)

server.

However, Hubacher discloses the management server comprises a

preexecution boot environment (PXE) server (col 2, lines 55-57).

Therefore, it would have been obvious to one of ordinary skill in the art to include bootstrap and preexecution to O'Toole because it would provide a network appliances that is capable of remote booting, remotely updating configuration of the clients from a central server.

26.   As per claims 21 and 28, O'Toole is silent about the wherein the service information comprises bootstrap instructions.

However, Hubacher discloses the service information comprises bootstrap instructions (col 1, lines 54-57).

Therefore, it would have been obvious to one of ordinary skill in the art to include bootstrap and preexecution to O'Toole because it would provide a network appliances that is capable of remote booting, remotely updating configuration of the clients from a central server.

Response to Arguments

27.   Applicant's arguments filed 08/26/2004 have been fully considered but they are not persuasive, therefore rejections to claims 1-59 is maintained.

28.   In the remarks, applicants argued that:

a.   Firstly, the O'Toole reference does not discloses, "forwarding, by

the management agent to the management server, the request for

service via Hypertext Transfer Protocol (HTTP)"

b.   Secondly, O'Toole does not discloses, "sending, by the

management server to the management agent, service information via

HTTP"

c.   Thirdly, O'Toole does not teach, suggest, or discloses,

"forwarding, by the management agent to client, service information"

d.   O'Toole passage does not teach, " the DHCP or BOOTP request".

e.   The cited O'Toole passage do not contain such disclosures,

"Installing operating or application program and providing

diagnostic………".

29.   In response to applicant's argument (a), examiner respect fully

disagrees. O'Toole clearly teaches forwarding (message transmission to

serving entity, col 10, lines 55-56), by the management agent to the

management server (via proxy server, col 10, lines 58-62 and col 7, lines

40-46), the request for service via Hypertext Transfer Protocol (HTTP)

(registry is process and acting as a management agent, which services client

with boot and configuration information, 28, fig, col 7, lines 15-19, col 10,

lines 58-67 and col 11, lines 5-18).

30.   In response to applicant's argument (b), examiner respect fully

disagrees. O'Toole teaches sending (message transmission to serving entity,

col 10, lines 55-56), by the management server (col to the management

agent (col 10, lines 58-62), service information via HTTP (registry is process

and acting as a management agent, which services client with boot and

configuration information, 28, fig, col 7, lines 15-19, col 10, lines 58-67 and

col 11, lines 5-18).

31.   In response to applicant's argument (c), examiner respect fully

disagrees. O'Toole teaches forwarding, by the management agent to the

client, the service information (registry is process and acting as a

management agent, which services client with boot and configuration

information, 28, fig, col 7, lines 15-19, col 10, lines 58-67 and col 11, lines

5-18).

32.   In response to applicant's argument (d), examiner respect fully

disagrees. O'Toole teaches the request comprises a DHCP or a BOOTP

request (col 7, lines 39-46 and col 10, lines 58-61, HTTP request).

33.   In response to applicant's argument (e), examiner respect fully

disagrees. O'Toole teaches the service includes one of installing an operating

system (rebuilding the file system, col 27, lines 4-11) or application program

(librarian and mover, col 24, lines 6-120) and providing diagnostic (testing,

col 9, lines8-15 and col 19, lines 62-67), upgrade (change the information,

col 20, lines 14-17), or system recovery service (col 5, lines 55-57 and col 6,

lines 39-48, boot algorithm to configure itself).

34.   Hubacher discloses the management server comprises a preexecution

boot environment (PXE) server (col 2, lines 49-59). Therefore, It would have

been obvious to one of ordinary skill in the art at the time of the invention

was made to combine the teachings of O'Toole and Hubacher. The

motivation would have been to have system that is capable of providing

remote booting to the clients in the network.

Conclusion

35.   The prior art made of record and not relied upon is considered

pertinent to applicant's disclosure:

U.S. Patent Chiles et al. (6,167,567), Jennery et al. (6,742,025), and

Rock et al. (6,524,245) teaches automatically updating software stored on

client computers.

36.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to

expire THREE MONTHS from the mailing date of this action. In the event a

first reply is filed within TWO MONTHS of the mailing date of this final action

and the advisory action is not mailed until after the end of the THREE-

MONTH shortened statutory period, then the shortened statutory period will

expire on the date the advisory action is mailed, and any extension fee

pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply

expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications

from the examiner should be directed to Mohammad A Siddiqi whose

telephone number is (571) 272-3976. The examiner can normally be

reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, John A Follansbee can be reached on (571) 272-

3964. The fax phone number for the organization where this application or

proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained

from the Patent Application Information Retrieval (PAIR) system. Status

information for published applications may be obtained from either Private

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available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on

access to the Private PAIR system, contact the Electronic Business Center

(EBC) at 866-217-9197 (toll-free).

MAS

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